

FCC MAIL SECTION

Federal Communications Commission

DA 00-373

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DISPATCHED BY      Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 99-36
Table of Allotments,	)	RM-9372
FM Broadcast Stations.	)	
(Denmark and Kaukauna, Wisconsin )	)	

**REPORT AND ORDER**  
**(Proceeding Terminated)**

Adopted: February 16, 2000

Released: February 29, 2000

By the Chief, Allocations Branch:

1. In response to a Petition for Rule Making filed by Midwest Dimensions, Inc. ("Midwest"), the Commission has before it for consideration the Notice of Proposed Rule Making, 14 FCC Rcd 2366 (1999), requesting the substitution of Channel 285C3 for Channel 285A at Kaukauna, Wisconsin, and reallocation of Channel 285C3 from Kaukauna to Denmark, as a first local service. Midwest requests modification of the license for Station WPCCK, Kaukauna, to specify operation on Channel 285C3 at Denmark as the community of license. Midwest filed supporting comments in which it reaffirmed its interest in Channel 285C3 at Denmark.

2. The proposed reallocation of Channel 285C3 from Kaukauna to Denmark, Wisconsin, was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recond. granted in part, 5 FCC Rcd 7094 (1990) ("Change of Community"). In the Change of Community License Order, the Commission expressed its concern with the potential migration of stations from rural areas to urban areas. The Commission relies on criteria established in Faye and Richard Tuck, 3 FCC Rcd 5374 (1988), to determine whether a community should be awarded a first local service preference.<sup>1</sup> Although the Notice indicated that Channel 285C3 at Denmark would provide coverage to over 50% of the Green Bay Urbanized Area with a 70 dBu signal from Midwest's specified site for Channel 285C3 at Denmark, additional staff engineering indicates that there will be no city-grade service over any part of the Appleton-Neenah or

<sup>1</sup> (1) signal population coverage; (2) the size of the suburban community relative to the adjacent city; and (3) the interdependence of the suburban community with the central city.

Green Bay Urbanized Areas. Nevertheless, Midwest has provided a Tuck showing demonstrating that Denmark is independent of all Urbanized Areas.<sup>2</sup> See Headland, Alabama and Chatahoochee, Florida, 10 FCC Rcd 10352 (1995). We believe that Midwest has provided sufficient information supporting Denmark's independence from the all Urbanized Areas and that the community is deserving of a first local service preference.

3. Based upon the information presented in this proceeding, we believe the public interest would be served by substituting Channel 285C3 for Channel 285A at Kaukauna, Wisconsin, and reallocating Channel 285C3 from Kaukauna to Denmark, Wisconsin, since it would result in a preferential arrangement of allotments, would enable Station WPCK to upgrade its facilities, and would not cause the removal of Kaukauna's sole local aural service since there are two other local services, Station WOGB(FM), Channel 276C3 and Station WJOK(AM). The proposed arrangement of allotments is preferable to the existing arrangement as it triggers priority (3) resulting in a first local transmission service to Denmark. Retention of Channel 285C3 in Kaukauna triggers priority (4), other public interest matters.

4. The reallocation proposal is consistent with the requirements set forth in Change of Community, *supra*. As stated in the Notice, Midwest proposes to relocate its transmitter site which produces both a gain and loss area for Station WPCK. The loss area for Station WPCK at Kaukauna contains 67,132 people while the gain area for Station WPCK at Denmark contains 164,336 people. A staff engineering analysis confirms that both the gain and loss areas for Station WPCK are completely covered by at least five other full-time reception services and are then considered to be well served areas.

5. Channel 285C3 can be allotted to Denmark, Wisconsin, in compliance with the Commission's minimum distance separation requirements at Midwest's specified site.<sup>3</sup> In accordance with Section 1.420(i) of the Commission's Rules, we modify the license for Station WPCK to specify operation on

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<sup>2</sup> Midwest provided the following information supporting its status as an independent community. Denmark has numerous local businesses which include banks, restaurants, grocery stores, an industrial park and apartment complexes as well as city parks. Many Denmark residents are employed in Denmark by the School District, Land O'Lakes, Inc. and a local printing plant for weekly newspapers. Denmark has its own weekly newspaper, The Denmark Press which contains advertisements for local businesses and is strong evidence that the community is independent from the Green Bay market. Denmark is an incorporated community with its own local government and elected officials. There are standing committees for Public Works, Parks and Recreation, Police, Water Utility, Sewer Utility, Finance and Personnel and Industrial Development and Improvement. Denmark has its own post office and zip code (54208) as well as its own telephone book and local exchange. Denmark has its own police Department, volunteer fire department, library, medical clinic, senior citizen's center and a retirement home. Civic organizations located in Denmark include the American Legion, Lions club, Future Farmers of America, Denmark Community Business Association, Girl Scouts and the Veterans of Foreign Wars. Denmark has a public elementary, middle and high school which are part of the Denmark Unified School District.

<sup>3</sup> The coordinates for Channel 285C3 at Denmark are 44-24-38 and 87-34-20.

Channel 285C3 at Kaukauna, Wisconsin, in lieu of Channel 285A at Kaukauna, Wisconsin, as its new community of license.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective April 14, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

Community	Channel Number
Denmark, Wisconsin	285C3
Kaukauna, Wisconsin	276C3

7. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Midwest Dimensions, Inc., for Station WPCCK, Channel 285A, Kaukauna, Wisconsin, IS MODIFIED to specify operation on Channel 285C3 at Denmark, Wisconsin, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, IF THE REQUEST IS GRANTED, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Midwest Dimensions, Inc., licensee of Station WPCCK, is required

to submit a rule making fee in addition to the fee required for the application to effect the change in community of license from Kaukauna to Denmark, Wisconsin, and substitute Channel 285C3 for Channel 285A.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions relating to the application filing process should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau